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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,446	01/04/2006	Ikao Shimoda	PTB-1207-131	8048
23117 7590 12/02/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
BURCH, MELODY M				
ART UNIT		PAPER NUMBER		
3657				
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12/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/563,446

**Applicant(s)**

SHIMODA ET AL.

**Examiner**

Melody M. Burch

**Art Unit**

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 7 and 8 are objected to because of the following informalities: the term "plate-like" in line 4 of claim 7 should be changed to --plate-- or --plate-shaped--, for example, to remove the term "like." Claim 8 is objected to due to its dependence from claim 7. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5445249 to Aida et al. in view of US Patent 4705982 to Besson et al.

Re: claims 1-8. Aida et al. show in figure 2 a dynamic vibration absorber comprising: a weight 1, a frame body 3 which surrounds the weight, a plurality of vertically mounted members 10,11,12 which are interposed between the frame body and the weight so as to hold the weight with respect to the frame body movably with respect to all directions in a plane and immovably in a vertical direction perpendicular to the plane as disclosed in col. 5 line 66 - col. 6 line 1, and a damping mechanism 2,6 for damping the vibration of the weight in the plane.

Aida et al. are silent with regards to the vertically mounted members being U-shaped leaf spring.

Besson et al. teach in figure 1 the use of U-shaped leaf springs 5 used to damp movement of a weight 2,3 within a frame 10.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the vertically mounted members of Aida et al. to have been U-shaped leaf springs, as taught by Besson et al., in order to provide a functionally equivalent means of creating a damping force which acts on the weight 1.

4. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5445249 to Aida et al. in view of US Patent 4705982 to Besson et al. as applied above, and further in view of US Patent 2004/0134733 to Wood.

Aida et al., as modified, are silent with regards to the tuning of the system.

Wood teaches in paragraph [0017] and in figure 2 the use of a dynamic absorber being tuned to a natural frequency of a structure where the dynamic vibration is installed and also teaches the use of a plurality of dynamic vibration absorbers wherein a natural frequency of the weight, the mass of the weight, the spring constant or the damping coefficient of at least one of the dynamic vibration absorbers is different from that of another.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the tuning of the system of Aida et al., as modified, to have included the abovementioned tuning arrangement, as taught by Wood, in order to provide a quieter machine or system.

***Information Disclosure Statement***

5. The information disclosure statement filed 1/4/06 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it does not provide a copy of the listed references or a copy of the international search report in a PCT national stage application in which the documents are cited. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

***Response to Arguments***

6. Applicant's arguments filed 8/21/08 have been fully considered but they are not persuasive. Applicant argues that the Office Action acknowledged that "Aida et al. does not disclose or suggest the recited U-shaped leaf springs for holding the weight portion 1 with respect to the upper and lower plates 4 and 5 movable with respect to all directions in a plane and immovably in a vertical direction perpendicular to the plane." Examiner disagrees and notes that the Office Action only acknowledged that Aida et al. were "silent with regards to the vertically mounted members being U-shaped leaf spring[s]." Besson et al. were used solely for teaching of the use of U-shaped leaf springs to damp the movement of a weight within a frame in place of the damping

means 10,11,12 of Aida et al. The limitation of the weight being held to be movable with respect to all directions in a plane and immovably in a vertical direction perpendicular to the plane is satisfied by the base reference, Aida et al. Examiner maintains that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified one movement damping means for another. Accordingly, Examiner maintains that Aida et al., as modified, teach the claimed invention.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb  
November 23, 2008

/Melody M. Burch/  
Primary Examiner, Art Unit 3657